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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,384	02/08/2002	Paul Gruber	AT 010002	1766

24737 7590 11/17/2003

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER
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BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 11/17/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

CLO6

<b>Office Action Summary</b>	<b>Application No.</b> 10/071,384	<b>Applicant(s)</b> GRUBER, PAUL	
	<b>Examiner</b> Shay L Balsis	<b>Art Unit</b> 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☒ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5.                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on February 12, 2001. It is noted, however, that applicant has not filed a certified copy of the 01200508.8 application as required by 35 U.S.C. 119(b). While, applicant has included a copy of the EP document, this is not considered to be a certified copy.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Dixon (USPN 5286192).

Dixon teaches a vibrating toothbrush comprising a body (13), a brush member (20) mounted on the body, a brush head (18) supported by the brush member, an additive outlet (40), two additive containers (42-45) and a drive means for generating vibration (30). The toothbrush has a switch (46) that is movable between a first and second position for selecting a first and second additive flow from the two additive containers. Additionally, a motor (27) is provided to activate the additive flows. There is a charging means (29) to charge the toothbrush and also a means (38) to refill the toothbrush with the additives.

### ***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cannarella (USPN 4060870)

Cannarella teaches a sonic toothbrush comprising a body (10), a brush member (12) mounted on the body, a brush head (44) supported by the brush member, an additive outlet (54, 56), two additive containers (20, 22) and a drive means for generating sonic frequency (28, 30). The toothbrush has a switch (46) that is movable between a first and second position for selecting a first and second additive flow from the two additive containers. Additionally, a motor (28) is provided to activate the additive flows. There is a charging means (48) to charge the toothbrush and also a means (50, 52, col. 2, lines 60, col. 3, lines 6) to refill the toothbrush with the additives. Cannarella does not specifically teach a charging base however it would have been obvious to use a charging base as the charging means. Cannarella states that the battery may be a rechargeable battery that can be charged from an external source (col. 3, lines 46-54). It would have been within the level of ordinary skill in the art to use a charging base as the means for recharging the batteries.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klupt (USPN 5321866) in view of Cannarella and in view of Dixon.

Klupt teaches a vibrating toothbrush comprising a body (14), a brush member (12) mounted on the body, a brush head (20) supported by the brush member, an additive outlet (82),

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an additive container (28) and a drive means for generating vibration (38). Additionally, a motor (40) is provided to activate the additive flow. There is a charging means (not shown, col. 5, lines 49-56)) to charge the toothbrush batteries (42) and also a means (100) to refill the toothbrush with the additives. Klupt teaches all the essential elements of the claimed invention however fails to teach an additional additive container. Klupt states that the toothbrush system is capable to have a plurality or multiplicity of reservoirs, which may be mounted on the holder to automatically fill the cleaning liquids into the toothbrush (col. 1, lines 65-col. 2 line 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the toothbrush to accommodate more than one additive or cleaning liquid since the refill base can. Cannarella and Dixon both teach two additive containers to allow for multiple liquids to be supplied such as toothpaste and mouthwash, saving time and energy.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cannarella in view of Klupt (USPN 5321866).

Cannarella teaches all the essential elements of the claimed invention however Cannarella fails to teach a base with refilling capabilities. Cannarella teaches that the additive is filled from the bottom through two apertures (16, 18). Klupt teaches a toothbrush refilling means. The toothbrush is set on a base (100) that is filled with the additive. The additive flows through a conduit (102) to the toothbrush where it is then stored in an additive container (28). It would have been obvious to use a refilling base as the means to refill Cannarella's invention to allow for easy, automatic filling without creating a mess (Klupt, col. 1, lines 55-64).

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon in view of Klupt (USPN 5321866).

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Dixon teaches all the essential elements of the claimed invention however fails to teach a base with refilling capabilities. Dixon teaches that the additive is filled from a side access door (38). Klupt teaches a toothbrush refilling means. The toothbrush is set on a base (100) that is filled with the additive. The additive flows through a conduit (102) to the toothbrush where it is then stored in an additive container (28). It would have been obvious to use a refilling base as the means to refill Dixon's invention to allow for easy, automatic filling without creating a mess (Klupt, col. 1, lines 55-64).

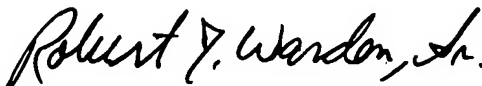
*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is presently 703-305-7275 after December 16, 2003 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

Sib  
11-6-03

  
ROBERT J. WARDEN, SR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700